

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAKAU NZOMO,

Plaintiff,

-v-

OFFICER WHEELER, OFFICER LANG,
OFFICER FAMIANO, SERGEANT
CRIMITZ,

Defendant.

RONNIE ABRAMS, United States District Judge:

Pro se Plaintiff Makau Nzomo filed this § 1983 action on November 2, 2010, naming only the City of New York as a defendant. On June 1, 2012, Judge Swain, to whom this case was previously assigned, dismissed Plaintiff's complaint for failure to state a claim of municipal liability and granted Plaintiff leave to amend. Plaintiff filed a first amended complaint on June 29, 2012, again naming only the City of New York as a defendant. The City of New York again moved to dismiss. By Order dated January 30, 2013, I granted the City of New York's motion, dismissing it as a party, but I also granted Plaintiff leave to amend his complaint within thirty days to name as Defendants the individual officers whose actions formed the basis of his allegations.

Plaintiff filed a second amended complaint on March 1, 2013, naming the individual officers as Defendants. Magistrate Judge Cott (to whom the case had been assigned for general pretrial) issued an order of service on March 5, 2013, requesting that the Pro Se Office send Plaintiff a Rule 4 Service Package and notifying Plaintiff that he had 120 days to effect service.

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No. 10 Civ. 8530 (RA)

ORDER

Noting that the docket reflected that Plaintiff had not served Defendants, on July 9, 2013, Judge Cott ordered Nzomo to return the USM-285 form, make alternate arrangements for service with the Clerk's office, or submit proof of service by August 9, 2013. That order warned Plaintiff that if he failed to serve Defendants with his second amended complaint, his claims may be dismissed. On September 3, 2013, Judge Cott issued a Report & Recommendation, recommending that Plaintiff's second amended complaint be dismissed for failure to prosecute. Neither party filed objections, despite being warned that they had fourteen days to do so.

In reviewing a report and recommendation, a district court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). When no objections to a report and recommendation are made, the Court may adopt it if there is no clear error on the face of the record. Adee Motor Cars, LLC v. Amato, 388 F.Supp. 2d 250, 253 (S.D.N.Y. 2005); La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000).

Having reviewed the record, and finding no clear error, the Court adopts Judge Cott's Report and Recommendation in its entirety. Plaintiff's second amended complaint is hereby dismissed with prejudice for failure to prosecute under Federal Rule of Civil Procedure 41(b).

The Clerk of Court is requested to close the case.

SO ORDERED.

Dated: January 9, 2014
New York, New York

A handwritten signature in blue ink, appearing to read 'Ronnie Abrams', written over a horizontal line.

Ronnie Abrams
United States District Judge